

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF PENNSYLVANIA

FIAZ AFZAL MD

Dr SHAHIDA SHUJA

Against

Civil Action No.

American Board of Internal Medicine

COMPLIANT

Jury Trial Yes

Parties in this complaint:

PLAINTIFFS

Fiaz Afzal MD

Address 65 Thorncliffe Park Dr, Unit 1715, Toronto, Ontario, M4H1L2 , CANADA

Phone 1-647-773-9028 Email fiazafzalmd@gmail.com

PLAINTIFF #2

Shahida Shuja

Address 11818 Adel Road, Houston, Texas 77067

Phone 647-5104157 Email shahidashuja03@gmail.com

DEFENDANT

American Board of Internal Medicine

Address 510 Walnut street, suite 1700, Philadelphia, PA 19106-3699

Phone 1-800-441-2216 email request@abim.org

II. BASIS FOR JURISDICTION

Under 28 U.S.C 1332 Diversity of Citizenship US citizen spouse in Texas and Fiaz

Afzal MD in Canada are suing American Board of internal Medicine ABIM in Philadelphia in an amount that is more than \$75000.

III. STATEMENT OF CLAIM

American Board of Internal Medicine ABIM is a private organization which is not subject to any oversight by any regulatory organization. ABIM is acting as de facto absolute power to control the right to practice Medicine in United States and elsewhere.

State Medical Boards require licensing of practicing physicians in USA. ABIM certification is NOT required for licensing in any US states but ABIM is introducing its own regulation to exclude diverse doctors of minority origin.

ABIM should agree that holding physicians under strict number of attempts and timed tests do not necessarily assess intelligence or ability. Bearing this issue ABIM has introduced Longitudinal Knowledge assessment LKA to maintain Board certification from year 2022. Exhibit 1 shows that key features include 4 minutes per question, 120 questions per year with permission to access any resource used in practice except another person. This pathway is available to those who are already certified by ABIM. New certification still requires the old way of testing

Traditional 10 year MOC exam with 2 min per question 240 questions at one day
with no resources to consult and no additional time. The Longitudinal Knowledge assessment LKA states "Don't worry if you need more time you can add 1 minute

increments from 30 min extra time from time bank" . LKA method provides a reentry pathway for lapsed certification Exhibit 1 .

The new LKA assessment test involves 30 question each quarter at home or in office availability . Final pass or fail to be determined at the end of 5 year cycle .

Longitudinal LKA assessment offers physicians greater flexibility , more convenience and faster feedback . For most questions you will find out immediately if your answers is right or wrong and rationales references will be available for most questions . The ABIM video advertisement on ABIM website acknowledges with LKA assessment you will spend most of your time learning to keep your medical knowledge current , NOT PREPPING . ABIM also allows resources to help you throughout the LKA journey . None of these flexibilities are offered in 10 year traditional exam for first time certification . ABIM is discriminating against Fiaz Afzal MD by refusing to allow new LKA assessment participation Exhibit 1. ABIM has self made an expiration of eligibility rule wherein it creates an ineligibility determination which requires RETRAINING in the specialty for one year and only then can the physician take any kind of

assessment whatsoever Exhibit 4. Expiration of Eligibility to take any assessment
is a new concept of discrimination which is NOT a feature of any State Medical Boards that license physicians in USA . State Medical Boards accept United States

Medical Licensing examination USMLE 3 as meeting requirements for licensure .

Once a physician is licensed there is no feature of Expiration of Eligibility as done by ABIM which is NOT a state licensing Board . Each State Medical Board require renewal of license but there is no such thing as Expiration of Eligibility to take any exam . If state medical Board require physician can take Special Purpose Exam SPEX administered by USMLE Federation of State Medical Board FSMB. Exhibit 9

ABIM has a history of discrimination against Afzal MD . ABIM in year 1996 sent two scores to Afzal MD but later refused to admit that it had mixed the results of one candidate to another , See Exhibit 11 . My score report was altered to show I passed one component but failed other component by only score of 95 whereas passing score was 97 . exhibit 11 .ABIM ruled out the possibility of any test scoring error whatsoever at that time . Recently December 2020 Kentucky Office of Bar admission acknowledged a test scoring error resulting in 18 applicants receiving incorrect information about their results .See Exhibit 10 Scoring error occurred when an applicant identifier was entered into a database **spreadsheet twice, causing a limited number of the other applicants scores to be misaligned and assigned to the wrong applicant . exhibit 10**

ABIM repeated this issue in year 2016 when it cancelled my paid admission to summer 2016 certification exam on basis of Louisiana conviction that was dismissed and Expunged already in Jan 2015 . Exhibit12 . Later on in year 2019 ABIM allows to take certification exam but with Fire drill occurring during exam at Pearson Vue center . The fire drill disturbance during examination resulted in approx. 10 minutes of wasted time during examination and approximately 10 questions went unanswered for which additional time was Denied . Exhibit 3 shows Pearson vue received complaint case 03308568 but ABIM did not provide any accommodation to 10 minutes of disturbance during examination time . ABIM policy states a candidate who believes that testing conditions or other examination administration issues have been adversely affected the candidates ability to take and complete an examination should notify the proctor at the test center, or contact ABIM as soon as possible after the exam . Afzal MD did both Exhibit 2 . ABIM states Re examination shall be the candidates sole remedy . Now ABIM denied Re examination remedy saying in letter Dec 7, 2020 that unfortunately it appears that 2019 was your final year of **Board Eligibility and an additional year of accredited training demonstrating competency is required .Exhibit 4**

ABIM is not authorized under any state or Federal law to determine competency and readiness for independent practice at the current standards of training . This is the job of State Medical Boards to determine competency to practice if any deficiencies then State Medical Board require SPEX exam by USMLE/ FSMB .
exhibit 9 .

ABIM is retaliating against me for the mistakes that ABIM does not admit Changing scores , mixing up results of two candidates and refusing to follow its own regulation by not allowing re examination option as explained . There is clear discrimination between those who opt to take 10 year MOC exam and Longitudinal LKA assessment . In my case no extra time is given for disturbance during examination whereas LKA get extra time for each question in addition to the 4 min per question . I was not allowed to consult any resources during exam whereas LKA assessment allows to consult any resources except a person . The 10 year MOC exam was designed to exclude diverse doctors who complain about any ABIM exam issues . High scores on 10 yr MOC are strongly correlated with socio economic status and tend to disadvantage Black Brown doctors who score significantly lower than their white peers . The cost of ABIM test its MKSAP

products by itself are a hurdle for low income new graduates especially Black Brown doctors who are taking this exam for first time . These inherent imbalances are greatly exacerbated by private test preparation industry mainly Medical Knowledge self assessment MKSAP owned by American College of physicians . ACP. This is same organization that provides questions to ABIM for examination purposes .The College that administers SAT has acknowledged the differentials in scores across race but blames them on inequities in educational preparation rather than test bias .The questions in ABIM exam 10 yr MOC are itself biased associated with cultural capital easily accessible to those from more elite background .Educators in medical schools eager to see their medical students enter selective residency training programs shape their lessons to conform with parameters set by ABIM so teachers in medical school are adapting their instructions to the priorities of a self interested business which is acting as a gatekeeper preventing physicians to be less varied by race, socioeconomic levels . Physician interests and abilities are limited by ABIM 10 year MOC exam which promotes crude memorization PREPPING rather than promote learning experience as is being advertised by new Longitudinal LKA assessment where **more time is given along with consultation with any educational resource except a person .**

If ABIM is not discriminating against me then I should be allowed to take Longitudinal assessment option LKA as I scored near passing scores in year 1996 exhibit 11 and again in year 2019 exhibit 5 where ABIM is retaliating against me by not providing additional 10 minutes or by not giving credit for 10 questions that went unanswered. I have scored above average scores on Pretest participation by MKSAP owned by American College of Physicians Exhibit 13. These are similar continuing medical credits that are needed for Longitudinal assessment option. exhibit 1

ABIM has no authority to order retraining in a residency program which are already insufficient that Medicare is funding 1000 new residency training spots over five years to address physician shortage Exhibit 6. In such a situation of Omicron pandemic which is unlikely to end as per Dr Anthony Fauci Exhibit 7 ABIM has sidelined my career as even Medicaid provider enrollment require Board certification status in spite of me being licensed in several US states Exhibit 14. My spouse Dr Shahida Shuja has been financially destroyed as I am not able to enroll in new Longitudinal assessment option to continue Board certification issues. **ABIM is ruthless in harming livelihood of physicians like me** as ABIM is not bound by any technical rules of evidence. ABIM can function as the accuser, judge, and executioner all in one by its skilled litigation to recoup legal

fees from those who do not capitulate . ABIM exam 10 yr. Traditional exam have a commercial bias designed to fail candidates like me with only score of few numbers time and again , making candidate like me to take the test time and again , making them to generate a revenue for the Board . Such actions amount to Exam crude memorization test rather than effort to update your clinical Knowledge . ABIM video advertisement LKA assessment acknowledges Exam prepping issue being absent in new LKA assessment . In spite of the fact that ABIM has created illegal monopoly power in the market for initial certification for internist ABIM has prevented the growth of any competition from any new providers of certification exams especially when USMLE 3 is the only required licensing examination administered by Federation of State Medical Board FSMB

.Exhibit 9

SPEX exam administered by FSMB is NOT recognized as initial certification or recertification at all .SPEX reexamination procedure even sponsored by State Medical Boards to meet licensure requirement and to determine competency of licensed physicians do not require RETRAINING in the medical specialty after a physician has been licensed once . Exhibit 9

RELIEF REQUESTED

ABIM acknowledges in its own online advertisement that new LKA assessment offers greater flexibility, more convenience , faster feedback , access to resources to keep your medical knowledge current . These greater flexibilities are Denied to first time certification of licensed physicians who are forced to take 10 year Traditional exam which is more crude memorization / PREPPING than learning issue . ABIM is discriminating one set of licensed physicians who enjoy all the flexibilities where as other set of licensed physicians undergo the exam prepping issues without access to resources whatsoever . This is unconstitutional policy of discrimination and ABIM should be ordered to make LKA assessment available to all licensed US physicians .

ABIM policy of expiration of Eligibility of physician Exhibit 4 to take certifying exam violates my constitutional rights to be treated equally and fairly . This policy overrides the State Board of Medical Examiners of each state policy to

determine competence to practice medicine independently according to prevailing standards . exhibit 9 ABIM has not been authorized to administer such a discriminatory policy by any state laws whatsoever . Licensing is jurisdiction of each State Medical Boards NOT ABIM .State Medical Board require SPEX exam if needed to determine competency but FSMB never requires RETRAINING as ABIM requires .exhibit 9

ABIM continued actions have prevented me from obtaining enrollment in Medicaid / Medicare whatsoever short circuiting my medical career in spite of being licensed by State Medical Boards in New Jersey, Florida, Nevada, North Carolina and Illinois to name a few valid licenses . exhibit 14 . ABIM be ordered to pay \$100,000 as compensation and ABIM be ordered to allow me to take new Longitudinal Assessment option . New examination option should be available to all licensed physicians irrespective whether first time new certification or recertification issues . To allow Longitudinal evaluation LKA to one set of physicians and denying to another set of physicians should be declared unconstitutional / illegal .exhibit 1. Permission be granted to proceed in District court as forma pauperis without prepaying feesor costs

Any other relief that this court determines just and fair .

I declare under penalty of perjury that the foregoing is true and accurate

Signed this 28 day of December 2021



Signature of plaintiff

Mailing address 65 Thorncliffe Park Dr Unit 1715

Toronto , Ontario, m4h1l2 , Canada

Phone 1-647-773-9028

Email fiazafzalmd@gmail.com



Signature Second PLAINTIFF

Address ; 11818 ADEL road, Houston, Texas 77067

Phone 647-5104157

Email shahidashuja03@gmail.com

CERTIFICATE OF SERVICE

On December 28,2021 I served American Board of Internal Medicine with the Complaint filed in this court by mailing a copy to ABIM 510 Walnut street , suite 1700 Philadelphia , PA 19106-3699 by mailing Priority mail Canada Post .

December 28, 2021

PLAINTIFF Signature

Plaintiff #2 signature

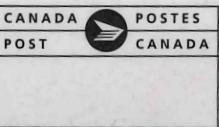
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Signature: *JAMES A BYRNE*

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PA 19106

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SIXTH
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MARKET STREET
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Clerk of Court Room 2609
James A Byrne COURT HOUSE



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